FOR MYSORE STATE

Revenue (1953) Department

Press. SERIES.

G.O. No. 2187

Dated 28-7-53

[Despatch Abstract.]

Tax - the Madras Tobacco (Taxation & Sales and Registration) Act & Rules - Certain doubts - Clarification - Amendments to Rules - Notification published

Abstract:

TAX - The Madras Tobacco (Taxation of Sales and Registration) Act & Rules - Certain doubts - clarified - Amendments to Rules - Notification - Published.

Revenue Department

G.O.(Press No. 2187 dated the 28th July 1953.
Read the following:

G.O.Press No. 1191 Revenue dated 24-4-1953.
From the Board of Revenue Ref.A. 5353 A/53-1 dated 13-6-1953.

...

ORDER:

In its Reference read above, the Board of Revenue has raised certain points for clarification regarding the interpretation of the provisions of the Madras Tobacco (Taxation of Sales and Registration) Act, 1953 and the Rules framed thereunder. The Government have examined these points. They pass the following orders:-

1) Section 3(6) of the Act.

The Board's presumption that persons starting new business after two months from the date of publication of the Act should not start the business without obtaining a registration certificate is correct.

2) Section 4, sub section (3) of the Act.

The Board has presumed -

(a) that the meaning of sub-section (3)(a)(1) of Section 4 is as follows:-

"No tax shall be levied on first sales of such cigarettes in the State of Madras, which are sold by the first seller at less than three pies per cigarette and which will be sold at the retail point to the consumer at not more than three pies per cigarette." and

(b) that similarly the phrase "the person taxed" occurring in sub-sections (3)(a)(2)(i) and (ii) and (3)(b) of Section 4 means "the first seller in the State".
The Board is informed that its presumptions are correct.

3) Exemption provision in sub-section (3) of Section4.

The Government agree with the Board that the reference to retail/~~settling~~ selling price in the section need not be given much significance. All that is necessary is that the price charged by the first seller should be such as reasonably to enable the cigarette to be sold at the retail point at the price fixed for retail sale, taking into consideration the normal course and incidents of trade and business. If a retailer sells for a higher price at the retail point, the first seller cannot be penalised by being deprived for the exemption to which he is entitled under the Act.

4) Para 3 of the Board's Reference: The Board of Revenue is informed that the point whether section 4 of the Act

offends Article 286 of the Constitution was duly considered before the section was enacted. The Act proposes to levy a tax on the first sales of taxed tobacco in this State. Where, therefore, under Article 286 of the Constitution, a sale is not effected in this State by virtue of the delivery being effected outside this State, no tax is leviable under the Act. Again ~~the~~ in respect of goods imported into this State from outside the territory of India and from other states, no tax is leviable on the first purchase in this State. Tax is leviable only at the time of sale by thefirst purchaser. None of the provisions are therefore against the Supreme Courts' decision on Article 286 of the Constitution.

5) Rule 4 (14):

The Government agree ~~w~~ that this rule applies only to cases of starting of new business and not to opening of branches. The case of branches is covered by rule 4(3).

6) Rules 7 to 14:

The liability to submit returns is only on the dealers who are liable to tax under the Act. To make this intention clear, Rules 7, 11 and 16 will be suitably amended.

2. The appended notification will be published in the Fort St. George Gazette.

(By Order of the Governor)

K. J. Jacques,
Deputy Secretary to Government

To The Board of Revenue (CT).
The Superintendent, Government Press for publication of Notification (Para 2 and Notification).
The Legal Department.
The Public Works (Information & Publicity) Department
The Andhra & Mysore Governments (~~with enclosure~~).

True copy / Forwarded / By Order.

Superintendent
30/7/53

kk.23.7.

23/7.

Appendix
Notification

In exercise of the powers conferred by Section 16 of the Madras Tobacco (Taxation of Sales and Registration) Act, 1953 (Madras Act IV of 1953), the Governor of Madras hereby makes the following amendments to the Madras Tobacco (Taxation of Sales and Registration) Rules, 1953 published with Revenue Department Notification No, 88 dated the 24th April 1953, at pages 1-16 of Part I of the Fort St. George Gazette Extraordinary dated the 25th April, 1953.

Amendments.

1. In rule 7 of the said rules, in sub-rules (1) and (2), after the words "Every dealer" the following words shall be inserted namely:-

"liable to pay tax under the Act";

2. In rule 11 of the said rules, in sub-rule (2), for

the words "Every dealer in taxed tobacco" the words "Every dealer liable to pay tax under the Act," shall be substituted;

3. In rule 15 of the said rules, after the words "Every dealer", the following words shall be inserted, namely:-

"liable to pay tax under the Act";

4. In Form 4 appended to the said rules, the words "the year ending" shall be omitted.

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